

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Consumers' Action Network,

Complainant,

vs.

Pacific Bell Telephone Company and AOL-Time
Warner, Inc.

Defendants.

Case 02-07-044
(Filed July 24, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
DEALING WITH AOL-TIME WARNER MOTIONS**

A telephone hearing was conducted on March 16, 2004, to deal with three motions filed in this case by AOL-Time Warner, Inc. (AOL). After review of pleadings by the parties and additional argument during the telephone hearing, the following rulings were made:

- AOL's motion to compel deposition of Michael Shames is granted. Shames is executive director of the Utility Consumers' Action Network (UCAN). In filed testimony, Shames presented himself as UCAN's principal witness in the evidentiary hearing now scheduled to begin April 26, 2004. The Commission has long permitted deposition of witnesses for good cause shown. (*See* Pub. Util. Code § 1794.) AOL has shown good cause for seeking to question the witness about UCAN's conclusions and allegations prior to hearing. The parties will arrange a mutually convenient time and location for deposition.
- AOL moves to compel SBC California (SBC) to disclose the redacted names and telephone numbers of 10 subscribers who filed complaints with the Commission or with SBC regarding their Internet experiences. The motion is

denied. Pub. Util. Code § 2891 and the Commission's informal complaint rules preclude release of a consumer's name and telephone number without the consumer's consent. AOL's reasons for seeking the identity of these consumers are outweighed by the consumers' right to confidentiality in filing these complaints. AOL retains the right to object to the consumer statements at hearing.

- AOL's motion to shorten time for responses to its other motions is dismissed as moot, since responses were filed prior to hearing.

IT IS RULED that:

1. The motion of AOL-Time Warner, Inc. (AOL) to compel deposition of the principal witness for the Utility Consumers' Action Network is granted.
2. The motion of AOL to compel disclosure of names and telephone numbers of 10 telephone subscribers is denied.
3. The motion of AOL to shorten time for responses is denied as moot.

Dated March 22, 2004, at San Francisco, California.

/s/ GLEN WALKER
Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Dealing With AOL-Time Warner Motions on all parties of record in this proceeding or their attorneys of record.

Dated March 22, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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